

117TH CONGRESS
1ST SESSION

H. R. 5837

To amend title XVIII of the Social Security Act to expand access to telehealth services relating to substance use disorder treatment, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 3, 2021

Mr. CURTIS (for himself and Mr. PETERS) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend title XVIII of the Social Security Act to expand access to telehealth services relating to substance use disorder treatment, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-
2 tives of the United States of America in Congress assembled,*

3 SECTION 1. TELEHEALTH FOR SUBSTANCE USE DISORDER

4 TREATMENT UNDER MEDICARE.

5 (a) TELEHEALTH FOR SUBSTANCE USE DISORDER

6 TREATMENT.—

7 (1) SUBSTANCE USE DISORDER SERVICES FUR-

8 NISHED THROUGH TELEHEALTH UNDER MEDI-

1 CARE.—Section 1834(m)(7)(A) of the Social Secu-
2 rity Act (42 U.S.C. 1395m(m)(7)(A)) is amended by
3 adding at the end the following: “With respect to
4 telehealth services described in the preceding sen-
5 tence that are furnished on or after January 1,
6 2020, nothing shall require an initial in-person med-
7 ical evaluation by a physician or practitioner prior to
8 the furnishing of such services through audio or tele-
9 phone only technologies.”.

10 (2) CONTROLLED SUBSTANCES DISPENSED BY
11 MEANS OF THE INTERNET.—Section 309(e)(2) of
12 the Controlled Substances Act (21 U.S.C. 829(e)(2))
13 is amended—

14 (A) in subparagraph (A)(i)—

15 (i) by striking “at least 1 in-person
16 medical evaluation” and inserting the fol-
17 lowing: “at least—

18 “(I) 1 in-person medical evalua-
19 tion”; and

20 (ii) by adding at the end the fol-
21 lowing:

22 “(II) for purposes of prescribing
23 a controlled substance in schedule III
24 or IV, 1 telehealth evaluation; or”;
25 and

(B) by adding at the end the following:

“(D)(i) The term ‘telehealth evaluation’

means a medical evaluation that is conducted in accordance with applicable Federal and State laws by a practitioner (other than a pharmacist) who is at a location remote from the patient and is communicating with the patient using a telecommunications system referred to in section 1834(m) of the Social Security Act (42 U.S.C. 1395m(m)) that includes, at a minimum—

“(I) audio and video equipment per-

mitting two-way, real-time interactive communication between the patient and distant site practitioner; or

“(II) audio-only for the prescription of

a partial opioid agonist for opioid use disorder if video services are unavailable to the patient, due to lack of availability of such technology or lack of adequate broadband access, as determined by the practitioner providing telehealth services and a two-way video telehealth appointment for an in-person medical evaluation or telehealth evaluation that utilizes both

1 audio and visual capabilities is required
2 within 10 days of the audio-only prescrip-
3 tion.

4 “(ii) Nothing in clause (i) shall be con-
5 strued to imply that 1 telehealth evaluation
6 demonstrates that a prescription has been
7 issued for a legitimate medical purpose within
8 the usual course of professional practice.

9 “(iii) A practitioner who prescribes the
10 drugs or combination of drugs that are covered
11 under section 303(g)(2)(C) using the authority
12 under subparagraph (A)(i)(II) of this para-
13 graph shall adhere to nationally recognized evi-
14 dence-based guidelines for the treatment of pa-
15 tients with opioid use disorders and a diversion
16 control plan, as those terms are defined in sec-
17 tion 8.2 of title 42, Code of Federal Regula-
18 tions, as in effect on the date of enactment of
19 this subparagraph.”.

20 (b) TASK FORCE.—

21 (1) IN GENERAL.—Not later than 30 days after
22 the date of the enactment of this Act, the Secretary
23 of Health and Human Services shall establish an
24 interagency task force to collect and assess data re-
25 lating to—

(B) opioid-related overdose rates in counties with annual rates of such prescriptions furnished in-person that are higher than the national average annual rate of such in-person prescriptions, opioid-related overdose rates in counties with less than 100 of such prescriptions furnished through telehealth annually, and opioid-related overdose rates in counties with less than 100 of such prescriptions furnished in-person annually, in each case based on the

20 Data Sources:

21 (C) emergency department admissions and
22 readmission rates of counties described in sub-
23 paragraph (B);

24 (D) the cost of care to the Federal Govern-
25 ment for such prescriptions furnished through

1 audio-only and audio-visual telehealth, including
2 if value-based purchasing leads to greater ac-
3 cess to care if possible, lower diversion rates,
4 and overall improved patient outcomes that are
5 defined by the Secretary;

6 (E) patient satisfaction surveys developed
7 by the Secretary and in consultation stake-
8 holder groups, such as patient or provider
9 groups;

10 (F) provider satisfaction survey developed
11 by the Secretary and in consultation with pro-
12 vider groups; and

13 (G) the number of practitioners furnishing
14 such prescriptions through telehealth to 275 pa-
15 tients or more at any one time, including the lo-
16 cation of each such practitioner that can be
17 identified by ZIP code and whether each such
18 practitioner is practicing telehealth across state
19 lines.

20 (2) REPORT.—Not later than 180 days after
21 the date of the enactment of this Act, and every 180
22 days thereafter, the Secretary shall make available
23 on a public website of the Department of Health and
24 Human Services and submit to the Committees on
25 Energy and Commerce and Ways and Means of the

1 House of Representatives and the Committees on Fi-
2 nance and Health, Education, Labor, and Pensions
3 of the Senate a report that summarized the data de-
4 scribed under paragraph (1) for the most recent
5 180-day period.

6 (3) GUIDANCE.—The Secretary of Health and
7 Human Services may issue guidance to providers to
8 assist in the treatment of patients based on the data
9 described under paragraph (1) for the most recent
10 180-day period.

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